

**ORDER**  
**U.S. v. Morgan, 09-cr-573 (BMC)(MDG)**

This order sets forth addresses the government's request for disclosure of the defendant's suppression hearing witness list made at a conference held on 3/30/10.

The government's request for reciprocal disclosure of the defendant's witness list is granted. "The government's voluntary turnover of desired material must be deemed to have been based upon the implied condition that the defense would reciprocate, if necessary, at a later date." U.S. v. Estremera, 531 F.2d 1103, 1112-13 (2d Cir. 1976). Although the government made some of its disclosures pursuant to court order, fairness dictates that the defendant also disclose his witness list in advance of the hearing since the defendant already has the government's witness list. See Advisory Committee Notes to 1966 Amendments, Fed. R. Civ. P. 16 ("[T]here are some situations in which mutual disclosure would appear necessary to prevent the defendant from obtaining an unfair advantage").

This Court notes that counsel for the defendant had stated that one witness is hesitant to have his identity disclosed because of fear of future harassment by police officers. However, it appears from the submissions that the name of this witness may already be known to law enforcement officers and there is no explanation given for protecting his identity other than the witness's subjective feelings. However, to ameliorate such concerns, the defendant does not need to disclose the names of the witnesses in a public filing and counsel for the government is directed not to disclose the names and statements of witnesses unless otherwise necessary for trial preparation. Accordingly, the defendant must disclose his witness list by April 12, 2010.

**SO ORDERED.**

Dated: Brooklyn, New York  
March 31, 2010

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/s/  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE